



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -

PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Added To File: 11/13/02 (Per Gmm)



☐ The drafting file for 2001 LRB - 4270 has been
transferred to the drafting file for **2003 LRB - 0700**

This cover sheet, the final request sheet, and the final version of the 2001 draft were copied on yellow paper, and returned to the original 2001 drafting file.

For research purposes, because the attached 2001 draft was incorporated into a new 2003 draft, this cover sheet and the complete drafting file was transferred, as a separate appendix, to the 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☐ The drafting file for 2003 LRB _____ has been
copied/added to the drafting file for **2003 LRB** _____

For research purposes, because the attached 2003 draft was incorporated into another 2003 draft, the attached drafting file was copied on yellow paper (darkened/auto centered/reduced to 90%), and added, as a appendix, to the new 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

This cover sheet was copied on yellow paper and added to rear of the original 2003 drafting file. The drafting file was then returned, intact, to its folder and filed.

2001 DRAFTING REQUEST**Bill**Received: **11/15/2001**Received By: **malaigm**Wanted: **As time permits**

Identical to LRB:

For: **Shirley Krug (608) 266-5813**By/Representing: **Herself**This file may be shown to any legislator: **NO**Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - family leave
Criminal Law - victims**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Employment leave for crime victims

Instructions:

See attached--require employers to permit employees who have been victims of crime to take leave from work. Limit to employers employing 50 or more employees.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 11/27/2001	gilfokm 01/14/2002					S&L
/1			pgreensl 01/14/2002		lrb_docadmin 01/14/2002	lrb_docadmin 03/04/2002	

FE Sent For:

<END>

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/1			pgrecons 01/14/2002		lrb_docadmin 01/14/2002		

FE Sent For:

<END>

2001 DRAFTING REQUEST**Bill**

Received: 11/15/2001

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Shirley Krug (608) 266-5813

By/Representing: Herself

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Addl. Drafters:

Subject: **Employ Priv - family leave
Criminal Law - victims**

Extra Copies:

Submit via email: NO

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1/?	malaigm	 11-28-01 11-1/11-02 King	4/14 PS	4/14 P8/SF			

FE Sent For:

<END>

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

SENATE BILL 1552

AN ACT

AMENDING TITLE 8, CHAPTER 3, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-420; AMENDING TITLE 13, CHAPTER 40, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-4439; AMENDING SECTION 23-1501, ARIZONA REVISED STATUTES; RELATING TO VICTIMS OF CRIMES AND JUVENILE OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 8, chapter 3, article 7, Arizona Revised Statutes, is
3 amended by adding section 8-420, to read:

4 8-420. Right to leave work; scheduled proceedings; counseling;
5 employment rights; nondiscrimination; confidentiality

6 A. AN EMPLOYER WHO HAS FIFTEEN OR MORE EMPLOYEES FOR EACH WORKING DAY
7 IN EACH OF TWENTY OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR
8 YEAR, AND ANY AGENT OF THAT EMPLOYER, SHALL ALLOW AN EMPLOYEE WHO IS A VICTIM
9 OF A JUVENILE OFFENSE TO LEAVE WORK FOR EITHER OR BOTH OF THE FOLLOWING
10 PURPOSES:

11 1. TO EXERCISE THE EMPLOYEE'S RIGHT TO BE PRESENT AT A PROCEEDING
12 PURSUANT TO SECTIONS 8-395, 8-400, 8-401, 8-402, 8-403, 8-405, 8-406 AND
13 8-415.

14 2. TO ATTEND UP TO TWELVE HOURS OF COUNSELING.

15 B. AN EMPLOYER MAY NOT DISMISS AN EMPLOYEE WHO IS A VICTIM OF A
16 JUVENILE OFFENSE BECAUSE THE EMPLOYEE EXERCISES THE RIGHT TO LEAVE WORK
17 PURSUANT TO SUBSECTION A OF THIS SECTION.

18 C. AN EMPLOYER IS NOT REQUIRED TO COMPENSATE AN EMPLOYEE WHO IS A
19 VICTIM OF A JUVENILE OFFENSE WHEN THE EMPLOYEE LEAVES WORK PURSUANT TO
20 SUBSECTION A OF THIS SECTION.

21 D. IF AN EMPLOYEE LEAVES WORK PURSUANT TO SUBSECTION A OF THIS
22 SECTION, THE EMPLOYEE MAY CHOOSE, BUT IS NOT REQUIRED, TO USE VACATION TIME
23 OR OTHER LEAVE RIGHTS.

24 E. AN EMPLOYEE WHO IS A VICTIM OF A JUVENILE OFFENSE SHALL NOT LOSE
25 SENIORITY OR PRECEDENCE WHILE ABSENT FROM EMPLOYMENT PURSUANT TO SUBSECTION A
26 OF THIS SECTION.

27 F. BEFORE AN EMPLOYEE MAY LEAVE WORK PURSUANT TO SUBSECTION A OF THIS
28 SECTION, THE EMPLOYEE SHALL DO ALL OF THE FOLLOWING:

29 1. PROVIDE THE EMPLOYER WITH A COPY OF THE FORM PROVIDED TO THE
30 EMPLOYEE BY THE LAW ENFORCEMENT AGENCY PURSUANT TO SECTION 8-386, SUBSECTION
31 A OR A COPY OF THE INFORMATION THE LAW ENFORCEMENT AGENCY PROVIDES TO THE
32 EMPLOYEE PURSUANT TO SECTION 8-386, SUBSECTION E.

33 2. IF APPLICABLE, GIVE THE EMPLOYER A COPY OF THE NOTICE OF EACH
34 SCHEDULED PROCEEDING THAT IS PROVIDED TO THE VICTIM BY THE AGENCY THAT IS
35 RESPONSIBLE FOR PROVIDING NOTICE TO THE VICTIM.

36 G. IT IS UNLAWFUL FOR AN EMPLOYER OR AN EMPLOYER'S AGENT TO REFUSE TO
37 HIRE OR EMPLOY, TO BAR OR TO DISCHARGE FROM EMPLOYMENT OR TO DISCRIMINATE
38 AGAINST AN INDIVIDUAL IN COMPENSATION OR OTHER TERMS, CONDITIONS OR
39 PRIVILEGES OF EMPLOYMENT BECAUSE THE INDIVIDUAL LEAVES WORK PURSUANT TO
40 SUBSECTION A OF THIS SECTION.

41 H. EMPLOYERS SHALL KEEP CONFIDENTIAL RECORDS REGARDING THE EMPLOYEE'S
42 LEAVE PURSUANT TO THIS SECTION.

43 I. AN EMPLOYER MAY LIMIT THE LEAVE PROVIDED UNDER THIS SECTION IF THE
44 EMPLOYEE'S LEAVE CREATES AN UNDUE HARDSHIP TO THE EMPLOYER'S BUSINESS. FOR
45 PURPOSES OF THIS SUBSECTION, "UNDUE HARDSHIP" MEANS A SIGNIFICANT DIFFICULTY

1 AND EXPENSE TO A BUSINESS AND INCLUDES THE CONSIDERATION OF THE SIZE OF THE
2 EMPLOYER'S BUSINESS AND THE EMPLOYER'S CRITICAL NEED OF THE EMPLOYEE.

3 Sec. 2. Title 13, chapter 40, Arizona Revised Statutes, is amended by
4 adding section 13-4439, to read:

5 13-4439. Right to leave work; scheduled proceedings;
6 counseling; employment rights; nondiscrimination;
7 confidentiality

8 A. AN EMPLOYER WHO HAS FIFTEEN OR MORE EMPLOYEES FOR EACH WORKING DAY
9 IN EACH OF TWENTY OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR
10 YEAR, AND ANY AGENT OF THAT EMPLOYER, SHALL ALLOW AN EMPLOYEE WHO IS A VICTIM
11 OF A CRIME TO LEAVE WORK FOR EITHER OR BOTH OF THE FOLLOWING PURPOSES:

12 1. TO EXERCISE THE EMPLOYEE'S RIGHT TO BE PRESENT AT A PROCEEDING
13 PURSUANT TO SECTIONS 13-4414, 13-4420, 13-4421, 13-4422, 13-4423, 13-4426,
14 13-4427 AND 13-4436.

15 2. TO ATTEND UP TO TWELVE HOURS OF COUNSELING.

16 B. AN EMPLOYER MAY NOT DISMISS AN EMPLOYEE WHO IS A VICTIM OF A CRIME
17 BECAUSE THE EMPLOYEE EXERCISES THE RIGHT TO LEAVE WORK PURSUANT TO SUBSECTION
18 A OF THIS SECTION.

19 C. AN EMPLOYER IS NOT REQUIRED TO COMPENSATE AN EMPLOYEE WHO IS A
20 VICTIM OF A CRIME WHEN THE EMPLOYEE LEAVES WORK PURSUANT TO SUBSECTION A OF
21 THIS SECTION.

22 D. IF AN EMPLOYEE LEAVES WORK PURSUANT TO SUBSECTION A OF THIS
23 SECTION, THE EMPLOYEE MAY CHOOSE, BUT IS NOT REQUIRED, TO USE VACATION TIME
24 OR OTHER LEAVE RIGHTS.

25 E. AN EMPLOYEE WHO IS A VICTIM OF A CRIME SHALL NOT LOSE SENIORITY OR
26 PRECEDENCE WHILE ABSENT FROM EMPLOYMENT PURSUANT TO SUBSECTION A OF THIS
27 SECTION.

28 F. BEFORE AN EMPLOYEE MAY LEAVE WORK PURSUANT TO SUBSECTION A OF THIS
29 SECTION, THE EMPLOYEE SHALL DO ALL OF THE FOLLOWING:

30 1. PROVIDE THE EMPLOYER WITH A COPY OF THE FORM PROVIDED TO THE
31 EMPLOYEE BY THE LAW ENFORCEMENT AGENCY PURSUANT TO SECTION 13-4405,
32 SUBSECTION A OR A COPY OF THE INFORMATION THE LAW ENFORCEMENT AGENCY PROVIDES
33 TO THE EMPLOYEE PURSUANT TO SECTION 13-4405, SUBSECTION E.

34 2. IF APPLICABLE, GIVE THE EMPLOYER A COPY OF THE NOTICE OF EACH
35 SCHEDULED PROCEEDING THAT IS PROVIDED TO THE VICTIM BY THE AGENCY THAT IS
36 RESPONSIBLE FOR PROVIDING NOTICE TO THE VICTIM.

37 G. IT IS UNLAWFUL FOR AN EMPLOYER OR AN EMPLOYER'S AGENT TO REFUSE TO
38 HIRE OR EMPLOY, TO BAR OR TO DISCHARGE FROM EMPLOYMENT OR TO DISCRIMINATE
39 AGAINST AN INDIVIDUAL IN COMPENSATION OR OTHER TERMS, CONDITIONS OR
40 PRIVILEGES OF EMPLOYMENT BECAUSE THE INDIVIDUAL LEAVES WORK PURSUANT TO
41 SUBSECTION A OF THIS SECTION.

42 H. EMPLOYERS SHALL KEEP CONFIDENTIAL RECORDS REGARDING THE EMPLOYEE'S
43 LEAVE PURSUANT TO THIS SECTION.

44 I. AN EMPLOYER MAY LIMIT THE LEAVE PROVIDED UNDER THIS SECTION IF THE
45 EMPLOYEE'S LEAVE CREATES AN UNDUE HARDSHIP TO THE EMPLOYER'S BUSINESS. FOR

PURPOSES OF THIS SUBSECTION. "UNDUE HARDSHIP" MEANS A SIGNIFICANT DIFFICULTY AND EXPENSE TO A BUSINESS AND INCLUDES THE CONSIDERATION OF THE SIZE OF THE EMPLOYER'S BUSINESS AND THE EMPLOYER'S CRITICAL NEED OF THE EMPLOYEE.

Sec. 3. Section 23-1501, Arizona Revised Statutes, is amended to read: 23-1501. Severability of employment relationships; protection

from retaliatory discharges; exclusivity of
statutory remedies in employment

The public policy of this state is that:

1. The employment relationship is contractual in nature.

2. The employment relationship is severable at the pleasure of either the employee or the employer unless both the employee and the employer have signed a written contract to the contrary setting forth that the employment relationship shall remain in effect for a specified duration of time or otherwise expressly restricting the right of either party to terminate the employment relationship. Both the employee and the employer must sign this written contract, or this written contract must be set forth in the employment handbook or manual or any similar document distributed to the employee, if that document expresses the intent that it is a contract of employment, or this written contract must be set forth in a writing signed by the party to be charged. Partial performance of employment shall not be deemed sufficient to eliminate the requirements set forth in this paragraph. Nothing in this paragraph shall be construed to affect the rights of public employees under the Constitution of Arizona and state and local laws of this state or the rights of employees and employers as defined by a collective bargaining agreement.

3. An employee has a claim against an employer for termination of employment only if one or more of the following circumstances have occurred:

(a) The employer has terminated the employment relationship of an employee in breach of an employment contract, as set forth in paragraph 2 of this section, in which case the remedies for the breach are limited to the remedies for a breach of contract.

(b) The employer has terminated the employment relationship of an employee in violation of a statute of this state. If the statute provides a remedy to an employee for a violation of the statute, the remedies provided to an employee for a violation of the statute are the exclusive remedies for the violation of the statute or the public policy set forth in or arising out of the statute, including the following:

(i) The civil rights act prescribed in title 41, chapter 9.

(ii) The occupational safety and health act prescribed in chapter 2, article 10 of this title.

(iii) The statutes governing the hours of employment prescribed in chapter 2 of this title.

(iv) The agricultural employment relations act prescribed in chapter 8, article 5 of this title.

1 All definitions and restrictions contained in the statute also apply to any
2 civil action based on a violation of the public policy arising out of the
3 statute. If the statute does not provide a remedy to an employee for the
4 violation of the statute, the employee shall have the right to bring a tort
5 claim for wrongful termination in violation of the public policy set forth in
6 the statute.

7 (c) The employer has terminated the employment relationship of an
8 employee in retaliation for any of the following:

9 (i) The refusal by the employee to commit an act or omission that
10 would violate the Constitution of Arizona or the statutes of this state.

11 (ii) The disclosure by the employee in a reasonable manner that the
12 employee has information or a reasonable belief that the employer, or an
13 employee of the employer, has violated, is violating or will violate the
14 Constitution of Arizona or the statutes of this state to either the employer
15 or a representative of the employer who the employee reasonably believes is
16 in a managerial or supervisory position and has the authority to investigate
17 the information provided by the employee and to take action to prevent
18 further violations of the Constitution of Arizona or statutes of this state
19 or an employee of a public body or political subdivision of this state or any
20 agency of a public body or political subdivision.

21 (iii) The exercise of rights under the workers' compensation statutes
22 prescribed in chapter 6 of this title.

23 (iv) Service on a jury as protected by section 21-236.

24 (v) The exercise of voting rights as protected by section 16-1012.

25 (vi) The exercise of free choice with respect to nonmembership in a
26 labor organization as protected by section 23-1302.

27 (vii) Service in the national guard or armed forces as protected by
28 sections 26-167 and 26-168.

29 (viii) The exercise of the right to be free from the extortion of fees
30 or gratuities as a condition of employment as protected by section 23-202.

31 (ix) The exercise of the right to be free from coercion to purchase
32 goods or supplies from any particular person as a condition of employment as
33 protected by section 23-203.

34 (x) THE EXERCISE OF A VICTIM'S LEAVES RIGHT AS PROVIDED IN SECTIONS 8-
35 420 AND 13-4439.

36 (d) In the case of a public employee, if the employee has a right to
37 continued employment under the United States Constitution, the Arizona
38 Constitution, Arizona Revised Statutes, any applicable regulation, policy,
39 practice, or contract of the state, any subdivision of the state or other
40 public entity, or any ordinance of any political subdivision of the state.

41 Sec. 4. Legislative intent

42 The legislature intends that employees who are victims of crime be
43 given the time from work to attend court proceedings. The legislature also
44 intends that the courts provide reasonable accommodations in scheduling that
45 consider the leave rights provided in this act.

Assigned to COM

AS PASSED BY THE SENATE

ARIZONA STATE SENATE
Phoenix, Arizona

REVISED
FACT SHEET FOR S.B. 1552

employment; victim's leave

Purpose

Adds to crime victims' rights the right to leave work for court proceedings and counseling associated with being a victim of a crime or a juvenile offense.

Background

In 1990, Arizona voters passed Proposition 104, which amended the State Constitution to provide for a *Victims' Bill of Rights*. In 1991, the Arizona Legislature passed statutes to define and implement the rights accorded to victims of crime under Article II, Section 2.1 of the Arizona Constitution.

Arizona's Victims' Bill of Rights guarantees crime victims the right to be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present. Also, Arizona courts may not accept a plea agreement unless reasonable efforts were made to confer with the victim of the crime, and the prosecuting attorney advises the court that the victim has been properly notified of the proceedings. On request, the victim has the right to be present and be heard at any proceeding in which a negotiated plea for the person accused of committing the criminal offense against the victim will be presented in the court. Arizona crime victims have the right to be heard in major court proceedings including pretrial release hearings, bail hearings, at sentencing, and before the disposition of plea agreements, probation, parole and commutation.

The victim compensation and assistance fund was established in 1985 (Laws 1985, Chapter 362). This money is allocated to public and private agencies for the purpose of establishing, maintaining and supporting programs that compensate and assist crime victims. That assistance includes counseling for crime victims.

However, employers are not required to allow for the time off necessary to attend court proceedings or counseling. S.B. 1552 requires employers with 15 or more employees to allow for this time off.

There is no anticipated fiscal impact to the state general fund associated with this measure.

Provisions

1. Requires an employer to allow an employee who is a victim of a crime or a juvenile crime to leave work for certain court proceedings and/or to obtain up to 12 hours of counseling. Prohibits an employer from dismissing an employee for leaving work for any of these reasons.
2. Stipulates that an employer is not required to compensate an employee who takes time off for reasons related to the employee's being a victim of a crime or a juvenile offense.
3. Gives an employer the authority to limit the victim's leave due to an "undue hardship" created by the employee's. Defines "undue hardship."
4. Stipulates that an employee may choose, but is not required, to use vacation time or other leave to attend court proceedings or counseling
5. Requires the employee, before taking time off for reasons related to the employee's being a victim of a crime or a juvenile crime, to provide the employer with a law enforcement agency-issued copy of the victims' rights information form and a copy of the notice of each scheduled proceeding, if applicable.
6. Prohibits an employer from refusing to hire an applicant, from dismissing an employee or from discriminating against an individual because the individual leaves work to attend a procedure or up to 12 hours of counseling associated with being a victim of a crime or a juvenile offense.
7. Requires employers to keep confidential any records regarding employees who are victims of a crime or a juvenile crime.
8. Gives an employee the right to a claim against an employer for termination of employment if the employer has terminated the employee for exercising a victim's right to leave work for counseling or court proceedings.
9. States that these provisions only apply to an employer with 15 or more employees.
10. Contains a legislative intent clause
11. Makes technical and conforming changes.
12. Provides for a general effective date.

Amendments Adopted by Committee

Reinstates the burden on the employee-victim in a lawsuit against a government entity for violating the employee victim's right to leave work.

Amendments Adopted by Committee of the Whole

1. Substitutes the Floor Amendment for the Committee Amendment.
2. Eliminates a victim's right to recover damages if the employer intentionally violates the victim's right to leave work for a court proceeding.
3. Permits a cause of action if an employer has terminated the employment relationship of an employee-victim for exercising the right to leave work for court proceedings or counseling.
4. Gives an employer the authority to limit the victim's leave because of significant difficulty and expense to the employer created by the employee's leave.
5. Limits, to twelve hours, the amount of time an employee can leave work for counseling.
6. Clarifies that an employee may choose, but is not required, to use vacation time or other leave for attending court proceedings or counseling.
7. States that these provisions only apply to employers with 15 more employees.

Senate Action

COM	2/28/01	DPA	5-0-1-0
3 rd Read	3/20/01		17-12-1-0

Prepared by Senate Staff
March 22, 2001



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4270/1
GMM:.....
OSE King

OLD; Due 1/14; but not B/H Budget.

2ⁿ/27

Gen. Cat.

- 1 AN ACT ...; relating to: leave from employment for an employee who is a crime
- 2 victim to attend court proceedings and receive counseling.

Analysis by the Legislative Reference Bureau

Under the current family and medical leave law, an employer, including the state, employing at least 50 individuals on a permanent basis in this state must permit an employee who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52-week period to take six weeks of family leave in a 12-month period and two weeks of medical leave in a 12-month period. Family leave may be taken for the birth or adoptive placement of a new child or to care for a child, spouse, or parent who has a serious health condition. Medical leave may be taken when the employee has a serious health condition that makes the employee unable to perform the employee's employment duties. An employee is not entitled to receive wages or salary while taking family leave or medical leave, but may substitute, for portions of family or medical leave, other types of paid or unpaid leave provided by the employer.

An employee who intends to take family or medical leave for the birth or adoptive placement of a child or for planned medical treatment must give the employer advance notice of the birth or adoptive placement or planned medical treatment. In addition, for planned medical treatment, the employee must make a reasonable effort to schedule the medical treatment so that it does not unduly disrupt the operations of the employer. If an employee requests family leave to care for a child, spouse, or parent who has a serious health condition or requests medical leave for a serious health condition of the employee, the employer may require the employee to provide certification by a health care provider of that serious health condition.

On return from family or medical leave, the employer must place the employee in the position that the employee held immediately before the leave began or, if that position is not available, in an equivalent position. An employee who is on family or medical leave does not have the right to accrue any seniority or employment benefit while on leave, except that the employer must maintain group health insurance coverage for the employee under the same conditions that applied before the leave began. An employer that interferes with, restrains, or denies the exercise of any right under the family and medical leave law may be ordered to take action to remedy the violation, including providing the requested leave, reinstating the employee, providing up to two years of back pay, and paying reasonable actual attorney fees. In addition, the employee may bring an action in circuit court to recover damages caused by the violation.

This bill requires an employer, including the state, employing at least 50 individuals on a permanent basis in this state to permit an employee who is the victim of a crime to take leave from employment for the purpose of attending court proceedings or parole interviews or hearings relating to the crime or for the purpose of receiving not more than 12 hours of counseling in a 12-month period to assist the employee in recovering from the psychological effects of the crime, unless the leave would unduly disrupt the employer's operations (crime victim's leave). An employee is not entitled to receive wages or salary while taking crime victim's leave, but may substitute, for portions of crime victim's leave, other types of paid or unpaid leave provided by the employer.

An employee who intends to take crime victim's leave for the purpose of attending a court proceeding or a parole interview or hearing or for the purpose of receiving counseling must give the employer advance notice of the court proceeding, parole interview or hearing, or counseling. In addition, for counseling, the employee must make a reasonable effort to schedule the counseling so that it does not unduly disrupt the operations of the employer. If an employee requests crime victim's leave for the purpose of attending a court proceeding or a parole interview or hearing or for the purpose of receiving counseling, the employer may require the employee to provide certification by the law enforcement agency that is responsible for investigating the crime that the employee is a victim of a crime. In addition, for a court proceeding or a parole interview or hearing, the employer may require the employee to provide a copy of the notice of the proceeding, interview, or hearing.

On return from crime victim's leave, the employer must place the employee in the position that the employee held immediately before the leave began or, if that position is not available, in an equivalent position. An employee who is on crime victim's leave does not have the right to accrue any seniority or employment benefit while on leave, except that the employer must maintain group health insurance coverage for the employee under the same conditions that applied before the leave began. An employer that interferes with, restrains, or denies the exercise of any right relating to crime victim's leave created under the bill may be ordered to take action to remedy the violation, including providing the requested leave, reinstating the employee, providing up to two years of back pay, and paying reasonable actual

attorney fees. In addition, the employee may bring an action in circuit court to recover damages caused by the violation.

Finally, for purposes of crime victim's leave, the bill defines "victim" as a person against whom a crime or delinquent act has been committed or, if that person is a child, the parent, guardian, or legal custodian of the person or, if that person is physically or emotionally unable to exercise the rights of a crime victim, a family member or designee of the person or, if that person is deceased, a family member of the person or a person who resided with the person or, if that person is incompetent, the guardian of the person.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 103.10 (title) of the statutes is amended to read:

2 **103.10 (title) ~~Family or, medical, and crime victim's~~ leave.**

3 **SECTION 2.** 103.10 (1) (ap) of the statutes is created to read:

4 103.10 (1) (ap) "Crime" has the meaning given in s. 950.02 (1m). ✓

5 **SECTION 3.** 103.10 (1) (i) of the statutes is created to read:

6 103.10 (1) (i) "Victim" has the meaning given in s. 938.02 (20m) or 950.02 (4), ✓
7 whichever is applicable. ✓

8 **SECTION 4.** 103.10 (2) (a) of the statutes is amended to read:

9 103.10 (2) (a) Nothing in this section prohibits an employer from providing
10 employees with rights to family leave ~~or, medical leave which, or crime victim's leave~~
11 that are more generous to the employee than the rights provided under this section.

12 **SECTION 5.** 103.10 (4m) of the statutes is created to read:

13 103.10 (4m) **CRIME VICTIM'S LEAVE.** (a) Subject to pars. (b) and (c), an employee
14 who is the victim of a crime may take crime victim's leave for the purpose of attending
15 any court proceeding or parole interview or hearing that the employee has the right

1 to attend under s. 950.04 ~~(1)~~ ^(iv) (b) or (nn) or for the purpose of receiving counseling to
2 assist the employee in recovering from the psychological effects of the crime.

3 (b) No employee may take more than 12 hours of crime victim's leave for the
4 purpose of receiving counseling during a 12-month period.

5 (c) An employer that receives a request for leave under par. (a) [✓] shall grant the
6 leave unless the leave would unduly disrupt the employer's operations.

7 (d) An employer that receives a request for leave under par. (a) [✓] shall keep
8 confidential the request and all records relating to the request.

9 **SECTION 6.** 103.10 (5) (a) of the statutes is amended to read:

10 103.10 (5) (a) This section does not entitle an employee to receive wages or
11 salary while taking family leave or, medical leave, or crime victim's leave.

12 **SECTION 7.** 103.10 (5) (b) of the statutes is amended to read:

13 103.10 (5) (b) An employee may substitute, for portions of family leave or,
14 medical leave, or crime victim's leave, paid or unpaid leave of any other type provided
15 by the employer.

16 **SECTION 8.** 103.10 (6) (b) of the statutes is amended to read:

17 103.10 (6) (b) If an employee intends to take family leave because of the
18 planned medical treatment or supervision of a child, spouse, or parent or, intends to
19 take medical leave because of the planned medical treatment or supervision of the
20 employee, or intends to take crime victim's leave for the purpose of receiving
21 counseling, the employee shall do all of the following:

22 1. Make a reasonable effort to schedule the medical treatment or supervision
23 or counseling so that it does not unduly disrupt the employer's operations, subject
24 to the approval of the health care provider of the child, spouse, parent, or employee.

2. Give the employer advance notice of the medical treatment or supervision
or counseling in a reasonable and practicable manner.

History: 1987 a. 287; 1989 a. 228; 1991 a. 39; 1993 a. 446; 1995 a. 27 s. 9130 (4); 1997 a. 3, 156.

SECTION 9. 103.10 (6) (c) of the statutes is created to read:

103.10 (6) (c) If an employee intends to take crime victim's leave for the purpose
of attending a court proceeding or parole interview or hearing, the employee shall
give the employer advance notice of the court proceeding or parole interview or
hearing in a reasonable and practicable manner.

SECTION 10. 103.10 (7) (am) of the statutes is created to read:

103.10 (7) (am) If an employee requests crime victim's leave for the purpose of
receiving counseling, the employer may require the employee to provide certification,
issued under s. 950.08 (2v) by the law enforcement agency that is responsible for
investigating the crime that the employee is a victim of a crime. If an employee
requests crime victim's leave for the purpose of attending a court proceeding or parole
interview or hearing, the employer may require, in addition to that certification, a
copy of the notice of the court proceeding or parole interview or hearing.

SECTION 11. 103.10 (7) (b) (intro.) of the statutes is amended to read:

103.10 (7) (b) (intro.) No employer may require certification under par. (a)
stating more than the following:

History: 1987 a. 287; 1989 a. 228; 1991 a. 39; 1993 a. 446; 1995 a. 27 s. 9130 (4); 1997 a. 3, 156.

SECTION 12. 103.10 (8) (a) (intro.) of the statutes is amended to read:

103.10 (8) (a) (intro.) Subject to par. (c), when an employee returns from family
leave or, medical leave, or crime victim's leave, his or her employer shall immediately
place the employee in an employment position as follows:

SECTION 13. 103.10 (8) (a) 1. of the statutes is amended to read:

1 103.10 (8) (a) 1. If the employment position which the employee held
2 immediately before the family leave ~~or~~, medical leave, or crime victim's leave began
3 is vacant when the employee returns, in that position.

4 **SECTION 14.** 103.10 (8) (a) 2. of the statutes is amended to read:

5 103.10 (8) (a) 2. If the employment position which the employee held
6 immediately before the family leave ~~or~~, medical leave, or crime victim's leave began
7 is not vacant when the employee returns, in an equivalent employment position
8 having equivalent compensation, benefits, working shift, hours of employment, and
9 other terms and conditions of employment.

10 **SECTION 15.** 103.10 (8) (b) of the statutes is amended to read:

11 103.10 (8) (b) No employer may, because an employee received family leave ~~or~~,
12 medical leave, or crime victim's leave, reduce or deny an employment benefit which
13 accrued to the employee before his or her leave began or, consistent with sub. (9),
14 accrued after his or her leave began.

15 **SECTION 16.** 103.10 (8) (c) of the statutes is amended to read:

16 103.10 (8) (c) Notwithstanding par. (a), if an employee on a family, medical ~~or~~
17 ~~family~~, or crime victim's leave wishes to return to work before the end of the leave as
18 scheduled, the employer shall place the employee in an employment position of the
19 type described in par. (a) 1. or 2. within a reasonable time not exceeding the duration
20 of the leave as scheduled.

21 **SECTION 17.** 103.10 (9) (a) of the statutes is amended to read:

22 103.10 (9) (a) Except as provided in par. (b), nothing in this section entitles a
23 returning employee to a right, employment benefit, or employment position to which
24 the employee would not have been entitled had he or she not taken family leave ~~or~~,

Strike spaces

1 medical leave, or crime victim's leave or to the accrual of any seniority or employment
2 benefit during a period of family leave ~~or~~, medical leave, or crime victim's leave.

3 **SECTION 18.** 103.10 (9) (b) of the statutes is amended to read:

4 103.10 (9) (b) Subject to par. (c), during a period an employee takes family leave
5 ~~or~~, medical leave, or crime victim's leave, his or her employer shall maintain group
6 health insurance coverage under the conditions that applied immediately before the
7 family leave ~~or~~, medical leave, or crime victim's leave began. If the employee
8 continues making any contribution required for participation in the group health
9 insurance plan, the employer shall continue making group health insurance
10 premium contributions as if the employee had not taken the family leave ~~or~~, medical
11 leave, or crime victim's leave.

12 **SECTION 19.** 103.10 (9) (c) 4. of the statutes is amended to read:

13 103.10 (9) (c) 4. If an employee ends his or her employment with an employer
14 during or within 30 days after a period of family leave ~~or~~, medical leave, or crime
15 victim's leave, the employer may deduct from the amount returned to the employee
16 under subd. 3. any premium or similar expense paid by the employer for the
17 employee's group health insurance coverage while the employee was on family leave
18 ~~or~~, medical leave, or crime victim's leave.

19 **SECTION 20.** 103.10 (9) (d) of the statutes is amended to read:

20 103.10 (9) (d) If an employee ends his or her employment with an employer
21 during or at the end of a period of family leave ~~or~~, medical leave, or crime victim's
22 leave, the time period for conversion to individual coverage under s. 632.897 (6) shall
23 be calculated as beginning on the day that on which the employee began the period
24 of family leave ~~or~~, medical leave, or crime victim's leave.

25 **SECTION 21.** 103.10 (10) of the statutes is amended to read:

1 103.10 (10) ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
2 employer and an employee with a serious health condition from mutually agreeing
3 to alternative employment for the employee while the serious health condition lasts.
4 No period of alternative employment, with the same employer, reduces the
5 employee's right to family leave ~~or~~, medical leave, or crime victim's leave.

6 **SECTION 22.** 103.10 (12) (d) of the statutes is amended to read:

7 103.10 (12) (d) The department shall issue its decision and order within 30 days
8 after the hearing. If the department finds that an employer violated sub. (11) (a) or
9 (b), it may order the employer to take action to remedy the violation, including
10 providing the requested family leave ~~or~~, medical leave, or crime victim's leave,
11 reinstating an employee, providing back pay accrued not more than 2 years before
12 the complaint was filed, and paying reasonable actual attorney fees to the
13 complainant.

14 **SECTION 23.** 103.10 (14) (b) of the statutes is amended to read:

15 103.10 (14) (b) Any person employing at least 25 individuals shall post, in one
16 or more conspicuous places where notices to employees are customarily posted, a
17 notice describing the person's policy with respect to leave for the reasons described
18 in subs. (3) (b) ~~and~~, (4) (a), and (4m).

19 **SECTION 24.** 108.04 (1) (b) 3. (intro.) of the statutes is amended to read:

20 108.04 (1) (b) 3. (intro.) While the employee is on family or medical leave under
21 the federal ~~family and medical leave act~~ of 1993 (P.L. 103-3), 29 USC 2601 to 2654,
22 or s. 103.10 or crime victim's leave under s. 103.10, until whichever of the following
23 occurs first:

24 **SECTION 25.** 111.91 (2) (f) of the statutes is amended to read:

1 111.91 (2) (f) Family leave and medical leave rights below the minimum
2 afforded under the federal family and medical leave act of 1993, 29 USC 2601 to 2654,
3 and s. 103.10 and crime victim's leave rights below the minimum afforded under s.
4 103.10. Nothing in this paragraph prohibits the employer from bargaining on rights
5 to family leave or medical leave which are more generous to the employee than the
6 rights provided under the federal family and medical leave act of 1993, 29 USC 2601
7 to 2654, and s. 103.10 and on rights to crime victim's leave which are more generous
8 to the employee than the rights provided under s. 103.10.

9 SECTION 26. 230.35 (2m) of the statutes is amended to read:

10 230.35 (2m) An employee shall be eligible for medical or family leave under s.
11 103.10 upon the expiration, extension, or renewal of any collective bargaining
12 agreement in effect on April 26, 1988, which covers the employee. An employee shall
13 be eligible for crime victim's leave under s. 103.10 upon the expiration, extension, or
14 renewal of any collective bargaining agreement in effect on the effective date of this
15 subsection [revisor inserts date], which covers the employee.

16 SECTION 27. 230.45 (1) (k) of the statutes is amended to read:

17 230.45 (1) (k) Receive and process complaints of violations relating to family
18 ~~or~~, medical, or crime victim's leave under s. 103.10 (12).

19 SECTION 28. 253.10 (3) (d) 1. of the statutes is amended to read:

20 253.10 (3) (d) 1. Geographically indexed materials that are designed to inform
21 a woman about public and private agencies, including adoption agencies, and
22 services that are available to provide information on family planning, as defined in
23 s. 253.07 (1) (a), including natural family planning information, to provide
24 ultrasound imaging services, to assist her if she has received a diagnosis that her
25 unborn child has a disability or if her pregnancy is the result of sexual assault or

1 incest and to assist her through pregnancy, upon childbirth, and while the child is
2 dependent. The materials shall include a comprehensive list of the agencies
3 available, a description of the services that they offer, and a description of the
4 manner in which they may be contacted, including telephone numbers and
5 addresses, or, at the option of the department, the materials shall include a toll-free,
6 24-hour telephone number that may be called to obtain an oral listing of available
7 agencies and services in the locality of the caller and a description of the services that
8 the agencies offer and the manner in which they may be contacted. The materials
9 shall provide information on the availability of governmentally funded programs
10 that serve pregnant women and children. Services identified for the woman shall
11 include medical assistance for pregnant women and children under s. 49.47 (4) (am),
12 the availability of family or, medical, and crime victim's leave under s. 103.10, the
13 Wisconsin works program under ss. 49.141 to 49.161, child care services, child
14 support laws and programs, and the credit for expenses for household and dependent
15 care and services necessary for gainful employment under section 21 of the internal
16 revenue code. The materials shall state that it is unlawful to perform an abortion
17 for which consent has been coerced, that any physician who performs or induces an
18 abortion without obtaining the woman's voluntary and informed consent is liable to
19 her for damages in a civil action and is subject to a civil penalty, that the father of
20 a child is liable for assistance in the support of the child, even in instances in which
21 the father has offered to pay for an abortion, and that adoptive parents may pay the
22 costs of prenatal care, childbirth, and neonatal care. The materials shall include
23 information, for a woman whose pregnancy is the result of sexual assault or incest,
24 on legal protections available to the woman and her child if she wishes to oppose
25 establishment of paternity or to terminate the father's parental rights. The

1 materials shall state that fetal ultrasound imaging and auscultation of fetal heart
2 tone services are obtainable by pregnant women who wish to use them and shall
3 describe the services.

4 **SECTION 29.** 893.96 (title) of the statutes is repealed and recreated to read:

5 **893.96 (title) Family, medical, and crime victim's leave; civil remedies.**

6 **SECTION 30.** 950.04 (1v) (bg) of the statutes is created to read:

7 950.04 (1v) (bg) To take leave from employment under s. 103.10 (4m) for the
8 purpose of attending court proceedings as provided in par. (b) or parole interviews
9 or hearings as provided in par. (nn) or for the purpose of receiving counseling to assist
10 the victim in recovering from the psychological effects of the crime.

11 **SECTION 31.** 950.08 (title) of the statutes is amended to read:

12 **950.08 (title) Information, certification, and mediation services.**

History: 1991 a. 39; 1997 a. 181.

13 **SECTION 32.** 950.08 (2g) (h) of the statutes is created to read:

14 950.08 (2g) (h) The right of the victim to receive certification under sub. (2v)
15 that he or she is a victim of a crime.

16 **SECTION 33.** 950.08 (2v) of the statutes is created to read:

17 950.08 (2v) CERTIFICATION OF VICTIM STATUS. A victim of a crime who intends
18 to take crime victim's leave under s. 103.10 (4m) and who is required by his or her
19 employer to provide certification under s. 103.10 (7) (am) that he or she is a victim
20 of a crime may request the law enforcement agency that is responsible for
21 investigating the crime to provide written certification to the victim that he or she
22 is a victim of a crime. As soon as practicable after receiving the request, the law
23 enforcement agency shall provide the written certification to the victim, who may use
24 the written certification to meet the employer's certification requirement.

SECTION 34. Initial applicability.

(1) This act first applies to an employee, as defined in section 103.10 (1) (b) of the statutes, who is affected by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.

(END)

Jacket for

Rep. Krug

-4270/1



2001 BILL

1 **AN ACT** *to amend* 103.10 (title), 103.10 (2) (a), 103.10 (5) (a), 103.10 (5) (b), 103.10
2 (6) (b), 103.10 (7) (b) (intro.), 103.10 (8) (a) (intro.), 103.10 (8) (a) 1., 103.10 (8)
3 (a) 2., 103.10 (8) (b), 103.10 (8) (c), 103.10 (9) (a), 103.10 (9) (b), 103.10 (9) (c) 4.,
4 103.10 (9) (d), 103.10 (10), 103.10 (12) (d), 103.10 (14) (b), 108.04 (1) (b) 3.
5 (intro.), 111.91 (2) (f), 230.35 (2m), 230.45 (1) (k), 253.10 (3) (d) 1. and 950.08
6 (title); **to repeal and recreate** 893.96 (title); and **to create** 103.10 (1) (ap),
7 103.10 (1) (i), 103.10 (4m), 103.10 (6) (c), 103.10 (7) (am), 950.04 (1v) (hg), 950.08
8 (2g) (h) and 950.08 (2v) of the statutes; **relating to:** leave from employment for
9 an employee who is a crime victim to attend court proceedings and receive
10 counseling.

Analysis by the Legislative Reference Bureau

Under the current family and medical leave law, an employer, including the state, employing at least 50 individuals on a permanent basis in this state must permit an employee who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52-week period to take six weeks of family leave in a 12-month

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period and two weeks of medical leave in a 12-month period. Family leave may be taken for the birth or adoptive placement of a new child or to care for a child, spouse, or parent who has a serious health condition. Medical leave may be taken when the employee has a serious health condition that makes the employee unable to perform the employee's employment duties. An employee is not entitled to receive wages or salary while taking family leave or medical leave, but may substitute, for portions of family or medical leave, other types of paid or unpaid leave provided by the employer.

An employee who intends to take family or medical leave for the birth or adoptive placement of a child or for planned medical treatment must give the employer advance notice of the birth or adoptive placement or planned medical treatment. In addition, for planned medical treatment, the employee must make a reasonable effort to schedule the medical treatment so that it does not unduly disrupt the operations of the employer. If an employee requests family leave to care for a child, spouse, or parent who has a serious health condition or requests medical leave for a serious health condition of the employee, the employer may require the employee to provide certification by a health care provider of that serious health condition.

On return from family or medical leave, the employer must place the employee in the position that the employee held immediately before the leave began or, if that position is not available, in an equivalent position. An employee who is on family or medical leave does not have the right to accrue any seniority or employment benefit while on leave, except that the employer must maintain group health insurance coverage for the employee under the same conditions that applied before the leave began. An employer that interferes with, restrains, or denies the exercise of any right under the family and medical leave law may be ordered to take action to remedy the violation, including providing the requested leave, reinstating the employee, providing up to two years of back pay, and paying reasonable actual attorney fees. In addition, the employee may bring an action in circuit court to recover damages caused by the violation.

This bill requires an employer, including the state, employing at least 50 individuals on a permanent basis in this state to permit an employee who is the victim of a crime to take leave from employment for the purpose of attending court proceedings or parole interviews or hearings relating to the crime or for the purpose of receiving not more than 12 hours of counseling in a 12-month period to assist the employee in recovering from the psychological effects of the crime, unless the leave would unduly disrupt the employer's operations (crime victim's leave). An employee is not entitled to receive wages or salary while taking crime victim's leave, but may substitute, for portions of crime victim's leave, other types of paid or unpaid leave provided by the employer.

An employee who intends to take crime victim's leave for the purpose of attending a court proceeding or a parole interview or hearing or for the purpose of receiving counseling must give the employer advance notice of the court proceeding, parole interview or hearing, or counseling. In addition, for counseling, the employee must make a reasonable effort to schedule the counseling so that it does not unduly

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disrupt the operations of the employer. If an employee requests crime victim's leave for the purpose of attending a court proceeding or a parole interview or hearing or for the purpose of receiving counseling, the employer may require the employee to provide certification, by the law enforcement agency that is responsible for investigating the crime, that the employee is a victim of a crime. In addition, for a court proceeding or a parole interview or hearing, the employer may require the employee to provide a copy of the notice of the proceeding, interview, or hearing.

On return from crime victim's leave, the employer must place the employee in the position that the employee held immediately before the leave began or, if that position is not available, in an equivalent position. An employee who is on crime victim's leave does not have the right to accrue any seniority or employment benefit while on leave, except that the employer must maintain group health insurance coverage for the employee under the same conditions that applied before the leave began. An employer that interferes with, restrains, or denies the exercise of any right relating to crime victim's leave created under the bill may be ordered to take action to remedy the violation, including providing the requested leave, reinstating the employee, providing up to two years of back pay, and paying reasonable actual attorney fees. In addition, the employee may bring an action in circuit court to recover damages caused by the violation.

Finally, for purposes of crime victim's leave, the bill defines "victim" as a person against whom a crime or delinquent act has been committed or, if that person is a child, the parent, guardian, or legal custodian of the person or, if that person is physically or emotionally unable to exercise the rights of a crime victim, a family member or designee of the person or, if that person is deceased, a family member of the person or a person who resided with the person or, if that person is incompetent, the guardian of the person.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 103.10 (title) of the statutes is amended to read:

2 **103.10 (title) Family or, medical, and crime victim's leave.**

3 **SECTION 2.** 103.10 (1) (ap) of the statutes is created to read:

4 103.10 (1) (ap) "Crime" has the meaning given in s. 950.02 (1m).

5 **SECTION 3.** 103.10 (1) (i) of the statutes is created to read:

6 103.10 (1) (i) "Victim" has the meaning given in s. 938.02 (20m) or 950.02 (4),

7 whichever is applicable.

BILL**SECTION 4**

1 **SECTION 4.** 103.10 (2) (a) of the statutes is amended to read:

2 103.10 (2) (a) Nothing in this section prohibits an employer from providing
3 employees with rights to family leave ~~or~~, medical leave ~~which~~, or crime victim's leave
4 that are more generous to the employee than the rights provided under this section.

5 **SECTION 5.** 103.10 (4m) of the statutes is created to read:

6 103.10 (4m) CRIME VICTIM'S LEAVE. (a) Subject to pars. (b) and (c), an employee
7 who is the victim of a crime may take crime victim's leave for the purpose of attending
8 any court proceeding or parole interview or hearing that the employee has the right
9 to attend under s. 950.04 (1v) (b) or (nn) or for the purpose of receiving counseling
10 to assist the employee in recovering from the psychological effects of the crime.

11 (b) No employee may take more than 12 hours of crime victim's leave for the
12 purpose of receiving counseling during a 12-month period.

13 (c) An employer that receives a request for leave under par. (a) shall grant the
14 leave unless the leave would unduly disrupt the employer's operations.

15 (d) An employer that receives a request for leave under par. (a) shall keep the
16 request and all records relating to the request confidential.

17 **SECTION 6.** 103.10 (5) (a) of the statutes is amended to read:

18 103.10 (5) (a) This section does not entitle an employee to receive wages or
19 salary while taking family leave ~~or~~, medical leave, or crime victim's leave.

20 **SECTION 7.** 103.10 (5) (b) of the statutes is amended to read:

21 103.10 (5) (b) An employee may substitute, for portions of family leave ~~or~~,
22 medical leave, or crime victim's leave, paid or unpaid leave of any other type provided
23 by the employer.

24 **SECTION 8.** 103.10 (6) (b) of the statutes is amended to read:

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1 103.10 (6) (b) If an employee intends to take family leave because of the
2 planned medical treatment or supervision of a child, spouse, or parent ~~or~~, intends to
3 take medical leave because of the planned medical treatment or supervision of the
4 employee, or intends to take crime victim's leave for the purpose of receiving
5 counseling, the employee shall do all of the following:

6 1. Make a reasonable effort to schedule the medical treatment or supervision
7 or counseling so that it does not unduly disrupt the employer's operations, subject
8 to the approval of the health care provider of the child, spouse, parent, or employee.

9 2. Give the employer advance notice of the medical treatment or supervision
10 or counseling in a reasonable and practicable manner.

11 **SECTION 9.** 103.10 (6) (c) of the statutes is created to read:

12 103.10 (6) (c) If an employee intends to take crime victim's leave for the purpose
13 of attending a court proceeding or parole interview or hearing, the employee shall
14 give the employer advance notice of the court proceeding or parole interview or
15 hearing in a reasonable and practicable manner.

16 **SECTION 10.** 103.10 (7) (am) of the statutes is created to read:

17 103.10 (7) (am) If an employee requests crime victim's leave for the purpose of
18 receiving counseling, the employer may require the employee to provide
19 certification, issued under s. 950.08 (2v) by the law enforcement agency that is
20 responsible for investigating the crime, that the employee is a victim of a crime. If
21 an employee requests crime victim's leave for the purpose of attending a court
22 proceeding or parole interview or hearing, the employer may require, in addition to
23 that certification, a copy of the notice of the court proceeding or parole interview or
24 hearing.

25 **SECTION 11.** 103.10 (7) (b) (intro.) of the statutes is amended to read:

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1 103.10 (7) (b) (intro.) No employer may require certification under par. (a)
2 stating more than the following:

3 **SECTION 12.** 103.10 (8) (a) (intro.) of the statutes is amended to read:

4 103.10 (8) (a) (intro.) Subject to par. (c), when an employee returns from family
5 leave ~~or~~, medical leave, or crime victim's leave, his or her employer shall immediately
6 place the employee in an employment position as follows:

7 **SECTION 13.** 103.10 (8) (a) 1. of the statutes is amended to read:

8 103.10 (8) (a) 1. If the employment position which the employee held
9 immediately before the family leave ~~or~~, medical leave, or crime victim's leave began
10 is vacant when the employee returns, in that position.

11 **SECTION 14.** 103.10 (8) (a) 2. of the statutes is amended to read:

12 103.10 (8) (a) 2. If the employment position which the employee held
13 immediately before the family leave ~~or~~, medical leave, or crime victim's leave began
14 is not vacant when the employee returns, in an equivalent employment position
15 having equivalent compensation, benefits, working shift, hours of employment, and
16 other terms and conditions of employment.

17 **SECTION 15.** 103.10 (8) (b) of the statutes is amended to read:

18 103.10 (8) (b) No employer may, because an employee received family leave ~~or~~,
19 medical leave, or crime victim's leave, reduce or deny an employment benefit which
20 accrued to the employee before his or her leave began or, consistent with sub. (9),
21 accrued after his or her leave began.

22 **SECTION 16.** 103.10 (8) (c) of the statutes is amended to read:

23 103.10 (8) (c) Notwithstanding par. (a), if an employee on ~~a family~~, medical ~~or~~
24 family, or crime victim's leave wishes to return to work before the end of the leave as
25 scheduled, the employer shall place the employee in an employment position of the

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1 type described in par. (a) 1. or 2. within a reasonable time not exceeding the duration
2 of the leave as scheduled.

3 **SECTION 17.** 103.10 (9) (a) of the statutes is amended to read:

4 103.10 (9) (a) Except as provided in par. (b), nothing in this section entitles a
5 returning employee to a right, employment benefit, or employment position to which
6 the employee would not have been entitled had he or she not taken family leave ~~or,~~
7 medical leave, or crime victim's leave or to the accrual of any seniority or employment
8 benefit during a period of family leave ~~or,~~ medical leave, or crime victim's leave.

9 **SECTION 18.** 103.10 (9) (b) of the statutes is amended to read:

10 103.10 (9) (b) Subject to par. (c), during a period an employee takes family leave
11 ~~or,~~ medical leave, or crime victim's leave, his or her employer shall maintain group
12 health insurance coverage under the conditions that applied immediately before the
13 family leave ~~or,~~ medical leave, or crime victim's leave began. If the employee
14 continues making any contribution required for participation in the group health
15 insurance plan, the employer shall continue making group health insurance
16 premium contributions as if the employee had not taken the family leave ~~or,~~ medical
17 leave, or crime victim's leave.

18 **SECTION 19.** 103.10 (9) (c) 4. of the statutes is amended to read:

19 103.10 (9) (c) 4. If an employee ends his or her employment with an employer
20 during or within 30 days after a period of family leave ~~or,~~ medical leave, or crime
21 victim's leave, the employer may deduct from the amount returned to the employee
22 under subd. 3. any premium or similar expense paid by the employer for the
23 employee's group health insurance coverage while the employee was on family leave
24 ~~or,~~ medical leave, or crime victim's leave.

25 **SECTION 20.** 103.10 (9) (d) of the statutes is amended to read:

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1 103.10 (9) (d) If an employee ends his or her employment with an employer
2 during or at the end of a period of family leave ~~or~~, medical leave, or crime victim's
3 leave, the time period for conversion to individual coverage under s. 632.897 (6) shall
4 be calculated as beginning on the day ~~that~~ on which the employee began the period
5 of family leave ~~or~~, medical leave, or crime victim's leave.

6 **SECTION 21.** 103.10 (10) of the statutes is amended to read:

7 103.10 (10) ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
8 employer and an employee with a serious health condition from mutually agreeing
9 to alternative employment for the employee while the serious health condition lasts.
10 No period of alternative employment, with the same employer, reduces the
11 employee's right to family leave ~~or~~, medical leave, or crime victim's leave.

12 **SECTION 22.** 103.10 (12) (d) of the statutes is amended to read:

13 103.10 (12) (d) The department shall issue its decision and order within 30 days
14 after the hearing. If the department finds that an employer violated sub. (11) (a) or
15 (b), it may order the employer to take action to remedy the violation, including
16 providing the requested family leave ~~or~~, medical leave, or crime victim's leave,
17 reinstating an employee, providing back pay accrued not more than 2 years before
18 the complaint was filed, and paying reasonable actual attorney fees to the
19 complainant.

20 **SECTION 23.** 103.10 (14) (b) of the statutes is amended to read:

21 103.10 (14) (b) Any person employing at least 25 individuals shall post, in one
22 or more conspicuous places where notices to employees are customarily posted, a
23 notice describing the person's policy with respect to leave for the reasons described
24 in subs. (3) (b) ~~and~~, (4) (a), and (4m).

25 **SECTION 24.** 108.04 (1) (b) 3. (intro.) of the statutes is amended to read:

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1 108.04 (1) (b) 3. (intro.) While the employee is on family or medical leave under
2 the federal family and medical leave act Family and Medical Leave Act of 1993 (P.L.
3 103-3), 29 USC 2601 to 2654, or s. 103.10 or crime victim's leave under s. 103.10,
4 until whichever of the following occurs first:

5 **SECTION 25.** 111.91 (2) (f) of the statutes is amended to read:

6 111.91 (2) (f) Family leave and medical leave rights below the minimum
7 afforded under the federal Family and Medical Leave Act of 1993, 29 USC 2601 to
8 2654, and s. 103.10 and crime victim's leave rights below the minimum afforded
9 under s. 103.10. Nothing in this paragraph prohibits the employer from bargaining
10 on rights to family leave or medical leave which are more generous to the employee
11 than the rights provided under the federal Family and Medical Leave Act of 1993,
12 29 USC 2601 to 2654, and s. 103.10 and on rights to crime victim's leave which are
13 more generous to the employee than the rights provided under s. 103.10.

14 **SECTION 26.** 230.35 (2m) of the statutes is amended to read:

15 230.35 (2m) An employee shall be eligible for medical or family leave under s.
16 103.10 upon the expiration, extension, or renewal of any collective bargaining
17 agreement in effect on April 26, 1988, which covers the employee. An employee shall
18 be eligible for crime victim's leave under s. 103.10 upon the expiration, extension, or
19 renewal of any collective bargaining agreement in effect on the effective date of this
20 subsection [revisor inserts date], which covers the employee.

21 **SECTION 27.** 230.45 (1) (k) of the statutes is amended to read:

22 230.45 (1) (k) Receive and process complaints of violations relating to family
23 or, medical, or crime victim's leave under s. 103.10 (12).

24 **SECTION 28.** 253.10 (3) (d) 1. of the statutes is amended to read:

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1 253.10 (3) (d) 1. Geographically indexed materials that are designed to inform
2 a woman about public and private agencies, including adoption agencies, and
3 services that are available to provide information on family planning, as defined in
4 s. 253.07 (1) (a), including natural family planning information, to provide
5 ultrasound imaging services, to assist her if she has received a diagnosis that her
6 unborn child has a disability or if her pregnancy is the result of sexual assault or
7 incest and to assist her through pregnancy, upon childbirth, and while the child is
8 dependent. The materials shall include a comprehensive list of the agencies
9 available, a description of the services that they offer, and a description of the
10 manner in which they may be contacted, including telephone numbers and
11 addresses, or, at the option of the department, the materials shall include a toll-free,
12 24-hour telephone number that may be called to obtain an oral listing of available
13 agencies and services in the locality of the caller and a description of the services that
14 the agencies offer and the manner in which they may be contacted. The materials
15 shall provide information on the availability of governmentally funded programs
16 that serve pregnant women and children. Services identified for the woman shall
17 include medical assistance for pregnant women and children under s. 49.47 (4) (am),
18 the availability of family or, medical, and crime victim's leave under s. 103.10, the
19 Wisconsin works program under ss. 49.141 to 49.161, child care services, child
20 support laws and programs, and the credit for expenses for household and dependent
21 care and services necessary for gainful employment under section 21 of the internal
22 revenue code. The materials shall state that it is unlawful to perform an abortion
23 for which consent has been coerced, that any physician who performs or induces an
24 abortion without obtaining the woman's voluntary and informed consent is liable to
25 her for damages in a civil action and is subject to a civil penalty, that the father of

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1 a child is liable for assistance in the support of the child, even in instances in which
2 the father has offered to pay for an abortion, and that adoptive parents may pay the
3 costs of prenatal care, childbirth, and neonatal care. The materials shall include
4 information, for a woman whose pregnancy is the result of sexual assault or incest,
5 on legal protections available to the woman and her child if she wishes to oppose
6 establishment of paternity or to terminate the father's parental rights. The
7 materials shall state that fetal ultrasound imaging and auscultation of fetal heart
8 tone services are obtainable by pregnant women who wish to use them and shall
9 describe the services.

10 **SECTION 29.** 893.96 (title) of the statutes is repealed and recreated to read:

11 **893.96 (title) Family, medical, and crime victim's leave; civil remedies.**

12 **SECTION 30.** 950.04 (1v) (bg) of the statutes is created to read:

13 950.04 (1v) (bg) To take leave from employment under s. 103.10 (4m) for the
14 purpose of attending court proceedings as provided in par. (b) or parole interviews
15 or hearings as provided in par. (nn) or for the purpose of receiving counseling to assist
16 the victim in recovering from the psychological effects of the crime.

17 **SECTION 31.** 950.08 (title) of the statutes is amended to read:

18 **950.08 (title) Information, certification, and mediation services.**

19 **SECTION 32.** 950.08 (2g) (h) of the statutes is created to read:

20 950.08 (2g) (h) The right of the victim to receive certification under sub. (2v)
21 that he or she is a victim of a crime.

22 **SECTION 33.** 950.08 (2v) of the statutes is created to read:

23 950.08 (2v) **CERTIFICATION OF VICTIM STATUS.** A victim of a crime who intends
24 to take crime victim's leave under s. 103.10 (4m) and who is required by his or her
25 employer to provide certification under s. 103.10 (7) (am) that he or she is a victim

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1 of a crime may request the law enforcement agency that is responsible for
2 investigating the crime to provide written certification to the victim that he or she
3 is a victim of a crime. As soon as practicable after receiving the request, the law
4 enforcement agency shall provide the written certification to the victim, who may use
5 the written certification to meet the employer's certification requirement.

SECTION 34. Initial applicability.

7 (1) This act first applies to an employee, as defined in section 103.10 (1) (b) of
8 the statutes, who is affected by a collective bargaining agreement that contains
9 provisions inconsistent with this act on the day on which the collective bargaining
10 agreement expires or is extended, modified, or renewed, whichever occurs first.

11 (END)